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Attorney for Defendant  
ANIL RAO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
San Francisco Division

I. MICHAEL ROSS,

Plaintiff,

v.

TOMLAB OPTIMIZATION AB, TOMLAB  
OPTIMIZATION, INC., and ANIL RAO,

Defendants.

Case No. C-08-01052-MHP

**DEFENDANT ANIL RAO'S CASE  
MANAGEMENT STATEMENT**

Pursuant to Civil L.R. 16-9, Defendant ANIL RAO ("Rao") submits this separate Case Management Statement. Defendant TOMLAB OPTIMIZATION, INC. ("Tomlab") filed its separate Case Management Statement on July 25, 2008, and Plaintiff I. MICHAEL ROSS ("Ross") filed his separate Case Management Statement on July 30, 2008, and. Rao did not receive a Request for Waiver of Service of Summons from Ross' attorney until July 24, 2008, and did not file his Answer until August 8, 2008. On August 6, 2008, and at Rao's attorney's request, counsel for Ross, Tomlab and Rao had a conference call to discuss the parties' respective Case Management Statement. Rao now files his separate Case Management Statement based upon counsels' conference call.

1                   **1. JURISDICTION AND SERVICE:**

2                   The basis for the Court's subject matter jurisdiction over Ross' claims is 28  
3 U.S.C. section 1338(a), 1367(a), and 2201(a). No issues exist regarding personal jurisdiction or  
4 venue. Defendant TOMLAB OPTIMIZATION AB remains to be served, and Rao proposes that  
5 the Court set September 11, 2008 as the deadline to serve this defendant.

6                   **2. FACTS:**

7                   Ross alleges that Rao's GPOCS software program, which was distributed by  
8 Tomlab, infringes Ross' copyrighted DIDO software program. Ross claims that GPOCS both  
9 literally and non-literally infringes his copyright. Specifically, Ross alleges that GPOCS  
10 infringes "protected expression" of Ross' copyrighted DIDO software program.

11                  The principal factual issues in dispute are set forth in Ross' ad Tomlab's separate  
12 Case Management Statement. Rao adopts the discussion in the "Facts" section of Ross' separate  
13 Case Management Statement, and incorporates that discussion by this reference.

14                  **3. LEGAL ISSUES:**

15                  The principal legal issues which the parties dispute are set forth in Ross' and  
16 Tomlab's separate Case Management Statement. Rao adopts the discussion in the "Legal Issues"  
17 section of Ross' separate Case Management Statement, and incorporates that discussion by this  
18 reference.

19                  **4. MOTIONS:**

20                  There are no pending motions. Rao anticipates filing a summary judgment  
21 motion after conducting discovery.

22                  **5. AMENDMENT OF PLEADINGS:**

23                  Rao does not currently intend to add or dismiss any parties, claims or defenses.

24                  **6. EVIDENCE PRESERVATION:**

25                  The parties have advised their respective clients and others to refrain from any  
26 document destruction and cease and documents-destruction program and any ongoing erasures of  
27 e-mails, voice mails and other electronically-recorded material.  
28

1                   7.     **INITIAL DISCLOSURES:**

2                   Ross and Tomlab stated that they have exchanged Initial Disclosures. Rao agreed  
3 to serve his Initial Disclosures by August 20, 2008, and Ross and Tomlab agreed to serve their  
4 Initial Disclosures on Rao by August 20, 2008.

5                   8.     **DISCOVERY:**

6                   Rao has not propounded or received any discovery as of the date of this statement.  
7 Rao files herewith his FRCP 26(f) Discovery Plan, and respectfully requests that discovery can  
8 begin immediately now that Rao has appeared and the parties have met and conferred regarding  
9 FRCP 26(f).

10                  9.     **CLASS ACTIONS:**

11                  This action is not a class action.

12                  10.    **RELATED CASES:**

13                  There are no related cases or proceedings pending before another judge of this  
14 Court, or before another court or administrative body.

15                  11.    **RELIEF:**

16                  Ross seeks disgorgement of profits resulting from Tomlab's sale of the GPOCS  
17 software program, statutory damages, attorneys' fees and costs. Ross also seeks injunctive relief.  
18 Rao adopts the discussion in the "Relief" section of Ross' separate Case Management Statement,  
19 and incorporates that discussion by this reference.

20                  12.    **SETTLEMENT AND ADR:**

21                  Rao has not discussed settlement with any of the other parties. During an August  
22 6, 2008 ADR Conference with the Court's ADR Coordinator, the parties agreed on Early Neutral  
23 Evaluation with Mediation as their ADR process.

24                  13.    **CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES:**

25                  Rao does not consent to have a magistrate judge conduct all further proceedings  
26 including trial and entry of judgment.

27                  14.    **OTHER REFERENCES:**

28                  Rao does not believe that this case is suitable for reference to binding arbitration,

a special master, or the Judicial Panel on Multidistrict Litigation.

**15. NARROWING OF ISSUES:**

Rao is not aware of any issues that can be narrowed by agreement or motion at this time.

**16. EXPEDITED SCHEDULE:**

Rao does not believe that this is the type of case that can be handled on an expedited basis with streamlined procedures.

**17. SCHEDULING:**

Rao proposes the following dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial:

Designation of Experts	Twelve weeks before trial
Discovery Cutoff	Eight weeks before trial
Hearing of Dispositive Motions	Six weeks before trial
Pretrial Conference	Two weeks before trial
Trial	August 2009

**18. TRIAL:**

Rao requests a jury trial, and estimates that trial will last approximately seven days.

**19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS:**

Rao has filed his Certification of Interested Entities of Persons. Pursuant to Civil L.R. 3-16, Rao's counsel certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: August 8, 2008

LAW OFFICE OF DEREK A. ELETICH

/s/ Derek A. Eletich

By: \_\_\_\_\_  
DEREK A. ELETICH

Attorney for Defendant  
ANIL RAO